

REMARKS

Claims 1-19 and 27-29 are pending in this application, with claims 1 and 28 being independent. Claims 1, 27 and 28 have been amended, and claims 20-24 and 26 have been canceled. Specifically, claim 1 has been amended to incorporate the limitations of dependent claim 26, now canceled. Claim 27 has been amended to depend from claim 1, and claim 28 has been rewritten in independent form. Applicants submit that the amendments to claims 1, 27 and 28 simply incorporate already existing dependent claim features into independent claims and, therefore, do not introduce new matter and do not raise any new issues for consideration that would require further search by the Examiner. Accordingly, applicants respectfully request entry of these amendments.

In the Advisory Action of February 6, 2005, the Examiner indicated that the amendment filed with the Office Action response mailed on January 19, 2006 would not be entered because the proposed incorporation of claim 26 limitations into claim 20 raised a new issue, pointing out that claim 26 did not depend from claim 20. This amendment does not propose to incorporate the claim 26 limitations into claim 20. It instead cancels claim 20 and dependent claims 21-24. Otherwise, this amendment proposes changes similar to those proposed by the January 19 amendment. Accordingly, applicants request entry of the claim amendments.

Below are comments that address the pending rejections, including the feedback received in the Advisory Action.

Independent claims 1, 20 and 28, along with their dependent claims 2, 4, 5, 7, 10, 11, 13, 17-19, 21-25, 27 and 29, have been rejected as being unpatentable over Yen (U.S. Patent No. 5,991,799) in view of Bournas (U.S. Patent No. 6,061,679).

Independent claim 1 recites a method of providing content relevant to television programming that includes determining television programming being viewed by a viewer and determining available context information associated with the television programming available for delivery to the viewer. As amended, claim 1 further recites "making an intelligent selection of selected context information from among the available context information, wherein making an intelligent selection comprises selecting the selected context information based upon a

hierarchy of the available context information ... wherein *the hierarchy* of the available context information *comprises ranked categories of context information associated with a television program being viewed by the viewer*" (emphasis added). As described in dependent claim 27, the ranked categories may include, for example, the episode of the television program, the name of the television program, and the broadcaster of the television program. Applicants request reconsideration and withdrawal of the rejection of claim 1, and its dependent claims, because neither Yen, Bournas, nor any proper combination of the two describes or suggests the recited intelligent selection of context information available for delivery to a viewer based on a hierarchy that includes ranked categories of context information associated with a television program being viewed by the viewer.

In the Advisory Action of February 6, 2006, the Examiner states that "one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references." While applicants agree in principal, applicants point out that it is necessary to address the shortcomings of each reference individually when the same feature is missing from each reference. Doing so is useful in demonstrating that the constituent parts fail to teach the feature, and thus, suggests the absence of the feature in the proposed combination. Moreover, it is akin to demonstrating a lack of prima facie evidence to support the rejection, inasmuch as some teaching of each and every feature must be present within the combination. In this case, both Yen and Bournas, either alone or in combination, fail to disclose the recited intelligent selection of context information based on a "hierarchy that includes ranked categories of context information associated with a television program being viewed by the viewer."

The Advisory Action of February 6, 2006 indicates that Yen discloses intelligent selection of context information based on the preferences of a user, relying upon a portion of Yen to indicate that these preferences may indicate types or categories of information that the user is likely interested in. See Advisory Action, page 2. The Examiner then indicates that the preferences may be associated with a television program currently being viewed by the user. Accordingly, the Examiner concludes that Yen teaches intelligent selection of context information based on categories of information associated with a television program. The

Examiner, however, acknowledges that Yen does not describe or suggest that intelligent selection of the context information is based on a hierarchy, wherein the hierarchy includes a ranking of the information by the categories presumably specified in the user preferences. Accordingly, the Examiner acknowledges that Yen does not describe or suggest the feature of making an intelligent selection of context information based on a hierarchy “wherein the hierarchy of the available context information comprises ranked categories of context information associated with a television program being viewed by the viewer.” See Advisory Action, page 2.

The Examiner refers to Bournas as disclosing the “hierarchy” feature, when applied to Yen’s system. In particular, the Examiner characterizes Bournas as remedying the deficiency of Yen because Bournas describes “an efficient hierarchical searching method for searching data structures, wherein a hierarchical data structure is a ranking system of categories and subcategories used to classify and arrange data.” See Advisory Action, page 2. Accordingly, the Examiner apparently contends that when Bournas’s search method and data structure are used in Yen’s system to search for television content, that the search would be based on a hierarchical data structure that groups and ranks television content by the categories specified in the user preferences of Yen.

Applicants disagree. Bournas does not describe or suggest the claimed hierarchy that includes “ranked categories of context information associated with a television program,” and, moreover, Bournas specifically teaches away from modifying Bournas’s data structure and associated hierarchy to use the categories of Yen in the manner suggested by the Examiner.

Bournas discloses a search method and a data structure that enable an entity or user to specify a key or address (e.g., an IP address) and efficiently find one or more target records (i.e., data records) associated with the specified key. See Bournas, e.g., at abstract; col. 5, lines 10-13; col. 12, line 43 to col. 14, line 10. Bournas discloses a data structure that enables an efficient search of target records by organizing the target records into groups according to the value of their keys through use of key masks. See Bournas, e.g., col. 12, line 43 to col. 14, line 10. The groups of target records are ranked in the data structure according to key mask ranges. See

Bournas, e.g., at col. 5, lines 26 to col. 6, line 7; col. 12, lines 4-41. Notably, the hierarchy described by Bournas is not a hierarchy that groups target records according to the content stored in the target records, rather it is a hierarchy that groups target records according to a specifically formatted key or address associated with each of the target records. A key (or address) is defined as a number of symbols that have a simple logical relation between them such that every key may be described as either bigger or smaller than every other key. For example, the key or address 192.131.000.000 is larger than the key or address 192.100.100.100. See Bournas, e.g., at col. 5, lines 13-16.

Notably, Bournas does not describe or suggest that the groupings of target records change based on the application in which the data structure and search method are used. Rather, Bournas describes the stored contents, rather than the groupings, of the target records changing based on application. See Bournas, e.g., at col. 6, lines 44-47. In particular, Bournas describes that the same search algorithm and data structure may be used for a routing application, in which case the target records contain information needed for routing (e.g., a gateway address and an agent program). See Bournas, e.g., at col. 4, lines 45-54; col. 6, lines 44-47. Bournas also describes that the same search algorithm and data structure may be used in a telnet application to gather login information, in which case the target records contain information needed when logging onto a particular computer. See Bournas, e.g., at col. 4, lines 55-56; col. 6, lines 44-47. Bournas also states that the search algorithm and data structure may be "used in various other situations that can take advantage of a searchable data structure that is ordered." See Bournas at col. 4, lines 59 and 60. Notably, Bournas's statement that the data structure may be used in "other situations" does not suggest that if Bournas's data structure were used in another application, the groupings of target records would no longer be by target record keys or addresses but rather would be by some other application-specific grouping or category related to the data stored in the target records (as apparently suggested by the Examiner). Rather, such a statement simply indicates that the data stored in the target records to which the data structure and search method would be applied when used for another application may be data other than routing data or login data.

In sum, Bournas does not describe or suggest a hierarchy that includes "ranked categories of context information associated with a television program being viewed by the viewer," as claimed. Moreover, applying Bournas's data structure and search process to Yen's system would not result in modifying Bournas's data structure and search process to include a hierarchy that includes ranked categories of information related to a television program. Rather, Bournas teaches the opposite, that is, that the same ranked categories or groupings of keys/addresses would be used irrespective of the application and/or the data (and categories imposed by the application on the data) to which the data structure and search process are applied. Accordingly, the Examiner's proposed combination of Yen and Bournas is not supported by the teachings of the references. Only impermissible hindsight provides a suggestion to combine the references in the manner proposed by the Examiner.

For at least this reason, claim 1, and its dependent claims 2, 4, 5, 7, 10, 11, 13, 17-19 and 25, are patentable over Yen, Bournas, and any combination thereof.

Independent claim 28 is previously pending claim 28 rewritten in independent form. Claim 28 recites a method of providing content relevant to television programming that includes determining television programming being viewed by a viewer and determining available context information associated with the television programming available for delivery to the viewer. Claim 28 further recites "making an intelligent selection of selected context information from among the available context information, wherein making an intelligent selection comprises selecting the selected context information based upon *a hierarchy* of the available context information ... wherein *the hierarchy* of the available context information *comprises ranked categories of context information associated with the viewer*" (emphasis added). Applicants request reconsideration and withdrawal of the rejection of claim 28, and its dependent claim 29, because neither Yen, Bournas, nor any proper combination of the two describes or suggests the recited intelligent selection of context information available for delivery to a viewer based on a hierarchy that includes ranked categories of context information associated with a viewer of a television program.

As described previously with respect to claim 1, Yen fails to describe or suggest the selection of context information based on a hierarchy, much less based on a hierarchy that includes ranked categories of context information associated with a viewer of a television program. Moreover, the hierarchy described by Bournas also does not include "*ranked categories of context information associated with the viewer,*" as claimed. Rather, Bournas's hierarchy includes ranked categories defined by ranges of specifically formatted keys or addresses associated with target records as defined through use of key masks and ordered based on key mask ranges.

For at least this reason, applicants request reconsideration and withdrawal of the rejection of claim 28 and its dependent claim 29.

Claims 3, 8, 9, 12 and 15, which depend from claim 1, have been rejected as being obvious over Yen in view of Bournas and further in view of Matthews (U.S. Patent No. 5,654,748). Matthews does not remedy the deficiencies of Yen and Bournas discussed above with respect to claim 1. In particular, Matthews does not describe or suggest, nor is it relied upon to teach, at least the claimed "making an intelligent selection [by] selecting the selected context information based upon a hierarchy of the available context information... wherein *the hierarchy* of the available context information *comprises ranked categories of context information associated with a television program being viewed by the viewer*" (emphasis added). Rather, Matthews relates to a system for providing an electronic programming guide that includes TV schedules and information about a TV program being viewed. For at least these reasons, claims 3, 8, 9, 12 and 15 are patentable over Yen, Bournas, Matthews, or any combination thereof.

Claims 6 and 14, which depend from claim 1, have been rejected as being obvious over Yen in view of Bournas and further in view of Feinleib (U.S. Patent No. 6,637,032). Feinleib also does not remedy the deficiencies of Yen and Bournas discussed above with respect to claim 1. In particular, Feinleib does not describe or suggest, nor is it relied upon to teach, at least the claimed "making an intelligent selection [by] selecting the selected context information based upon a hierarchy of the available context information ... wherein *the hierarchy* of the available

context information *comprises ranked categories of context information associated with a television program being viewed by the viewer*" (emphasis added) ." Rather, Feinleib relates to a system for synchronizing supplemental content with a television program by using unique data character string in the closed captioning of the television program. For at least these reasons, claims 6 and 14 are patentable over Yen, Bournas, Feinleib, or any combination thereof.

Applicants do not acquiesce in the Examiner's characterizations of the art. For brevity and to advance prosecution, however, applicants may have not addressed all characterizations of the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by the applicants to any of the examiner's positions does not constitute a concession of the examiner's positions. The fact that applicant's comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. All of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

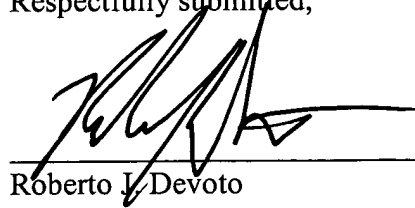
Applicants submit that all claims are in condition for allowance.

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Date: _____

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Respectfully submitted,



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